

LOWER FEATHER RIVER CORRIDOR MANAGEMENT PLAN (LFRCMP)

The Lower Feather River Corridor Management Plan is being developed to establish a vision for future management, restoration, and maintenance of flood control facilities, conveyance channels, and floodplain and related habitat on the Feather River from the Sutter Bypass to the Yuba River confluence (approx. 20 mi.). The LFRCMP will implement the new collaborative approach for planning, designing and implementing projects within and adjacent to flood control features that DWR is responsible for maintaining and repairing.

MEETING AGENDA For Safe Harbor-Like Provisions Subcommittee

Date and Time: Monday August 16, 2010 1:00-2:30 pm

Location: AECOM's office at 2020 L Street, Mid-Town Sacramento 95811

Call-in Conference Numbers: 866-227-5157; Conference Code: 916-990-2569

Time	Topics	Lead
1:00 pm	Introductions and Purpose of Subcommittee	Jeff Twitchell Tony Danna
1:15 - 1:30	Review existing federal and state Wildlife Units and existing/ proposed mitigation/restoration sites and restoration efforts within Lower Feather River Corridor	Jeff Twitchell, Matt Wacker, Tony Danna
1:30 - 1:50	Inventory and Review of existing MOU's within Lower Feather River Corridor (Some key MOUs are on the LFRCMP web page)	Tony Danna Dale Whitmore
1:50 - 2:10	Inventory and Review of Existing Biological Opinions within Lower Feather River Corridor ; O'Conner Lakes, LD-1 Star Bend; TRLIA Feather and Bear Rivers; Lake of the Woods and others?	Jennifer Hobbs Paul Brunner Jeff Twitchell
2:10 - 2:25	Issues, opportunities and potential options to share with LFRCMP Work Group	Jeff Twitchell Steve Fordice
2:25- 2:30	Action items and next steps	Jeff Twitchell
2:30	Adjourn	

Notes

Introductions & Purpose – Jeff Twitchell

Attendance: Jeff Twitchell - LD1, Sutter Basin, and chair; Gary Hobgood - CDFG; Dale Whitmore – CDFG (on phone); Paul Brunner – TRLIA; Jennifer Hobbs – USFWS; Steve Fordice – RD 784; Andrea Mauro – CVFPB; John Carlon & Helen Swagerty - River Partners (on phone); Matt Wacker - AECOM; Ken Cumming – NOAA NMFS; Earl Nelson - DWR; Ron Unger – DWR; Tony Danna – DWR; Jennifer Stephenson – DWR/EIP Projects.

This subcommittee was formed to discuss safe harbor-like agreements for organizations and government agencies. The challenge seems to be how to organize all mitigation and ecosystem improvement efforts from differing agencies to make a more effective consolidated plan. We need to come away with a process to recognize and resolve mitigation issues for the long term. The group was to blend a “safe harbor-like” approach to habitat improvement and mitigation efforts along the entire stretch of the Lower Feather River Corridor Management Plan.

Jeff – Discussed the purpose of the meeting and the goal for the formation of the subcommittee. He discussed some background on the LD1 – Star Bend Operation, Maintenance, Repair, Replacement, & Rehabilitation (OMRR&R) Agreement with CVFPB (Board). LD1 will enter into an agreement to amend the OMRR&R agreement for the Feather River west levee between Yuba City and the Bobelaine Audubon Ecological Preserve. The Board informed LD1 that it would not sign this agreement because they were not aware the permit authorized the Valley Elderberry Longhorn Beetle (VELB) mitigation/restoration work; they want to look at a long term management plan and the goal to have the 20 acres that LD1 has restored and annex it into the O’Conner Lake program, preferably with safe harbor-like provisions; and the Board wants to know how LD1 will be addressing the issue of maintenance of flood control and mitigation.

Paul – TRLIA created an onsite Elderberry mitigation site for the Feather River Setback. The mitigation site has a B.O. and is part of the USACE 408 Authorization and 404 permit. The CVFPB has asked TRLIA to not complete the mitigation site until an encroachment permit is issued. At this time all indications from the CVFPB is that a safe harbor like solution for floodway maintenance is needed before an encroachment permit will be issued for mitigation sites such as TRLIA’s. Potentially, the delay in issuing an flood control project over this issue impacts public safety.. This is another reason why this group needs to expedite the completion of the Feather River Corridor Management Plan.

Jennifer H. - Safe harbor agreements are with private land owners. We are discussing agreements with government agencies and organizations that would accomplish the same purpose as the Safe Harbor agreements. These would be “Safe Harbor-esque” Agreements. The challenge seems to be how you organize all the obligations from differing agencies to make a more effective plan. We need to come away with a process to resolve these issues for the long term.

Jeff – Discussed the Sutter Butte Flood Control Agency (SBFCA) and their involvement in the Feather River Corridor. He felt that like TRLIA, SBFCA is a multi-jurisdiction agency formed to promote flood control improvement projects in the Sutter Basin. This organization includes Sutter County, Butte County, LD-1, and the Cities of Yuba City, Live Oak, Gridley, and Biggs. SBFCA would represent a broader range of parties on the west side of the Feather River. Also, SBFCA recently passed a benefit assessment district to fund significant levee improvements along the Feather River's west bank. SBFCA will likely need to identify mitigation/restoration sites within the Lower Feather River corridor.

DFG Wildlife Areas in the Lower Feather River

Proposed mitigation/restoration sites and restoration efforts within the Corridor

Dale – Discussed the different units within the project area. He mentioned the past efforts to do restoration of habitat and to improve the corridor flow patterns. In addition, he mentioned how the entire corridor must be managed as whole and not be a piece meal effort.

Inventory and Review of existing MOU's within Lower Feather River Corridor

MOU's and Biological Opinion for Elderberry found on website:

<http://www.water.ca.gov/floodmgmt/fmo/msb/>

Jeff – discussed the various Memorandums of Understanding that exist in the Corridor and where some of the MOU's are deficient.

Gary – Told the group of the current status of the MOU on routine maintenance. He told the group that the MOU will now be called a Routine Maintenance Agreement (RMA) and that it is in final review by DWR. The new agreement contains about 90% of the same material as the older MOU that expired in June 2010. The Agreement includes a definition of what "routine maintenance" includes and how it has to have "no impact" on listed species. The RMA will specifically address the streambed alteration requirements of DFG.

Gary also mentioned that he feels that all new MOU and Agreements should not reference other MOU's and Agreements because they have a shelf life that will expire. He stressed the importance of all MOU's and Agreements should stand on their own. In addition, Gary discussed the O'Connor Lakes MOU and how it was in the process of being expanded to cover the entire Lower Feather River Corridor.

Inventory and Review of Existing Biological Opinions within Corridor

Any other Biological Opinions in region

Jennifer H – Discussed the Biological Opinions and that the Elderberry B.O. for O'Connor Lakes was the only one that contained safe harbor like provisions because of the restoration nature (vs. mitigation/compensatory) of the project. She discussed the regulatory role of the FWS and how she envisioned the "safe harbor-like" agreement working. She told us of the Services concern that maintenance activities are expanding in definition and that the future impacts need to be addressed. Jennifer feels a baseline study of the ecosystem needs to be established and future monitoring needs to determine the overall direction of change. She mentioned the need to include adaptive management in any plan developed for the Feather River to address flexibility

in management. The “safe harbor-like” agreement will address incidental take. We need to consider the long term and perhaps ultimately a habitat conservation plan may need to be developed.

Jennifer discussed the difference between a biological opinion, a “safe harbor-like” agreement, and a habitat conservation plan.

Issues, opportunities and potential options to share with LFRCMP Work Group

Jeff - Began this topic by discussing the recent issues with Star Bend levee realignment. A 20-acre “orphan” was recreated when a levee was realigned that was initially intended to be part of the O’Connor Lakes area. The Board would not include it under the same agreement.

Dale – Told the Subcommittee that the DFG acquired the management of O’Connor Lakes land under a 50 year MOU with the State Reclamation Board in 1977. Since it is a 50 agreement it ends in 2027. The property remains in the ownership of the Sacramento-San Joaquin Drainage Water District.

Paul – Discussed the Anderson Road Elderberry Mitigation site and the 75 acres set aside for VELB mitigation. This area was established in 1998 and is under consideration for Yuba River Marysville Ring Levee mitigation.

Dale – Stressed the avoidance of species disturbance as much as possible as the best measure of species protection.

Group discussion followed on species density and baseline studies to determine the number of individual plans or acres of species in corridor. The hydraulics of the stream flow and the protection of the baseline species need to be considered in any future management decisions. Conveyance of flood water and the design flow will be discussed at the next meeting on hydraulic modeling.

Jennifer H – Discussed the “safe harbor-like” agreement and its relationship to section 7 and the Habitat Conservation Plans relationship to section 10. The Federal “nexus” to a project or area needs to be established. In the past the USACE has been the nexus at the beginning of a project but the USFWS Refuge have provided that nexus for older or existing projects.

Action items and next steps

Paul – Suggested the six follow-up actions needed:

1. Identify endangered species both federal and state within the corridor. VELB, Swainson’s Hawk, anadromous fish, bank swallows, and others?
2. The Ecological Baseline needs to be addressed – vegetation, fish, and wildlife. Where are the data gaps and how do we fill those gaps?
3. What are the potential future “safe harbor-like” agreements that we envision – beyond O’Conner Lake Unit- can it be expanded to cover all of the LFR corridor
4. Identify the land ownership pattern within the Corridor and what percent is state controlled today. If the majority is private land, then we need to discuss potential “Safe Harbor” agreements.

5. Explore and identify funding for maintenance of floodway and mitigation/restoration areas in LFR corridor.
6. Review the current mitigation sites. What is the potential for planting more concern species in those sites? What benefits will be gained from identifying new sites for species re-establishment and greater diversity for recovering species of interest.

We need to identify the baseline species information. We need to address areas within the corridor that need restoration of habitat and those that need maintenance to improve habitat.

Jennifer H – Stressed the fact that there are many species of concern within the Corridor other than Elderberry. We need to address all these species.

John C – Mentioned not to forget the long term conservation strategy. Once we determine through the baseline data compiled we should address what we want the Corridor to look like as future vision. He again asked if the subcommittee wanted to recommend a Habitat Conservation Plan (HCP). No final decision made.

Group then had discussion on the removal of Cottonwood trees and the slow decline of the species along the river. All safety concerns should be removing these hazards by routine maintenance in the future.

The meeting Adjourned at 2:45 pm